UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/AC.105/C.2/SR.565
16 July 1993
ENGLISH
ORIGINAL: SPANISH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-second session

SUMMARY RECORD OF THE 565th MEETING

Held at Headquarters, New York,
on Friday, 26 March 1993, at 10 a.m.

Chairman: Mr. MIKULKA (Czech Republic)

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The meeting was called to order at 10.15 a.m.

GENERAL EXCHANGE OF VIEWS (continued)

1. Mr. SANCHEZ GARCIA (Observer for Cuba) said that Cuba had participated for more than 10 years in the work of the Committee on the Peaceful Uses of Outer Space, and in the Legal Subcommittee and the Scientific and Technical Subcommittee, because his Government planned to become a member of the Committee and to take part in efforts to establish mechanisms for international cooperation that would allow rapid and equitable assimilation by poor and developing countries of the benefits and advantages of the exploration and peaceful use of outer space.

2. With regard to the forthcoming consideration and possible revision of the principles relevant to the use of nuclear power sources in outer space, he noted that if that revision was to be beneficial, it would be necessary to apply legal norms to significantly reduce the risks and to ensure to an even greater extent that all countries, particularly developing countries, would be able to use those power sources under safe conditions.

3. With regard to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, Cuba was in favour of the early establishment of a boundary between air and outer space so as to protect State sovereignty, and supported the development of a legal regime that would ensure the rational and equitable use of the geostationary orbit by all States, taking particular account of the needs of developing countries.

4. As a developing country, Cuba hoped that the right of access of all States to the benefits deriving from the exploration and utilization of outer space would be guaranteed, and that the right of countries having little or no space capacity to participate fully in the exploration and utilization of outer space when they had the material conditions to do so would be safeguarded. In that respect, it was important for developing countries to have effective access to the benefits of space technology; otherwise, the growing disparities between rich and poor countries would spread into outer space.

5. Cuba deplored the continuing allocation of enormous financial resources to the military uses of outer space. The resources that were being so senselessly squandered could be used to provide assistance to the developing countries, many of which were plagued by hunger and poverty, or to give effect to the legitimate wish that the exploration and utilization of outer space be carried out for the benefit of all States.

6. He stressed the importance of the recommendations made at the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space, particularly those which were designed to promote the economic, social, scientific and technological progress of developing countries. Those recommendations must be implemented as a matter of urgency.

7. The Committee on the Peaceful Uses of Outer Space should consider the question of the transfer of space technology to developing countries and the best ways and means of achieving that transfer, and also the access of developing countries to the information obtained through remote sensing, which

(Mr. Sanchez Garcia, Observer, Cuba)

was stored in data banks, so that they would be able to react appropriately to environmental emergencies and monitor environmental conditions. Cuba reiterated that it was prepared to cooperate with all countries and international organizations in research into the peaceful uses of outer space and to participate in applying the results of those studies.

8. Mr. AYEWAH (Nigeria) said that the Subcommittee had made a significant contribution to the progressive development and codification of applicable space law in the exploration and use of outer space. It had also contributed to the work of the Committee on the Peaceful Uses of Outer Space in meeting the expectations of Member States and in seeking to make outer space the genuine province of all mankind irrespective of the varying levels of technological development.

9. The principles relevant to the use of nuclear power sources in outer space had been adopted in 1992 following 13 years of deliberations and negotiations. In view of the dangers inherent in the use of nuclear power sources in outer space, strict principles needed to be applied to safeguard outer space and the Earth's environment. However, his delegation was concerned that Principle 11 provided for the revision of the whole set of principles two years after their adoption. Although advances in technology might necessitate a constant revision of the set of principles, his delegation felt that there was a need to first establish common ground on how to strengthen the principles rather than wasting energy in negotiating controversial proposals that would undermine the consensus that had been achieved on the set of principles.

10. The report of the Subcommittee on the work of its thirty-first session revealed an emerging willingness on the part of States to elaborate the basic principles that would regulate the exploration and use of outer space. In particular, the Working Group had made progress on matters relating to the definition and delimitation of outer space and the rational and equitable use of the geostationary orbit. Although some differences still remained, his delegation was optimistic that a breakthrough would be achieved during the current session.

11. His delegation had taken note of the working paper submitted by the Russian Federation (A/AC.105/C.2/L.189) and would comment on it later in the course of the discussions. However, it wished to reiterate its firm belief that outer space, including the geostationary orbit, should remain the common heritage of all mankind, to be equitably explored and rationally used for the benefit of all States. Outer space should not, therefore, be subject to national appropriation or any other claim. The International Telecommunication Union should provide additional scientific and technical input into the allocation, management and use of radio frequencies in the orbit.

12. His delegation hoped that the deliberations on agenda item 5 would take into account the views expressed by the developing countries in the working group. Nigeria, like other States, had called on the space Powers and the technologically advanced countries to spread more visibly the benefits of the exploration of outer space, which had yet to be felt globally. Developed countries and developing countries did not have equal access to space science and technology owing to the wide gap between their respective levels of

(Mr. Ayewah, Nigeria)

scientific and technological development and to the developing countries' lack of material resources and industrial base; as a result, the exploration and use of outer space and the benefits derived therefrom were confined to a few countries. In order to eliminate those inequalities, there must be a legal framework which, as part of international law, would enhance international cooperation and ensure equitable access to outer space and its benefits. That did not mean imposing undue obligations on any State but recognizing the existence of two different categories of States that were mutually interdependent. His delegation would give full support to the further elaboration of those aspects as outlined in document A/AC.105/C.2/L.22.

13. Lastly, he expressed concern about the problem of space debris, in view of the proliferation of satellites and other space objects in all orbits; in his delegation's view, that subject should be included as a separate item in the agenda of the Committee on the Peaceful Uses of Outer Space.

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION

14. The CHAIRMAN reviewed the work done on the item by the Subcommittee and drew attention to the relevant documentation.

15. Mr. HAMBALI (Indonesia) said that his delegation was encouraged by the spirit of cooperation and the positive atmosphere that had characterized the discussion of agenda item 4 at the latest session of the Working Group. The discussion had been based on the "working non-paper" circulated by several members of the Group of 77 during the thirtieth session of the Subcommittee, and on various other oral proposals. In addition, there was document A/AC.105/C.2/L.147, submitted by Colombia, Ecuador, Indonesia and Kenya, and the "working non-paper" submitted by the Group of 77 during the twenty-eighth session of the Subcommittee.

16. Those documents and discussions reflected the fact that the developing countries, including the equatorial States and other members of the Subcommittee, were seeking a satisfactory formulation that would balance their respective interests. Indonesia therefore supported using the most recent "working non-paper" submitted by the Group of 77 as the basis for further discussion by the Subcommittee, but urged that elements from the two previous documents, A/AC.105/C.2/L.147 and the 1989 "working non-paper", should also be taken into account.

17. The geostationary orbit was an integral part of outer space and a limited natural resource. Currently, the majority of States, in particular the developing countries, did not have equitable access to the geostationary orbit with proper safeguards. It was therefore imperative for the Subcommittee to clarify the legal implications of the utilization of the geostationary orbit and establish a special legal regime in that regard, supplementary to the 1967 Treaty on Principles Governing the Activities of States and the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

18. Mr. REY (Colombia) said that his delegation planned to take an active part in the deliberations of the Working Group on agenda item 4, but that he also wished to make a statement now at the plenary session of the Subcommittee.

19. With regard to the definition and delimitation of outer space, Colombia reiterated its position that it was necessary to delimit with precision the sphere of application of the legal principles elaborated by the Committee on the Peaceful Uses of Outer Space and adopted by the international community, as well as the sphere of application of any principles elaborated in the future, particularly as concerned the lower limit of outer space. It was important to give further consideration to that question in the light of the working paper submitted by the Russian delegation (A/AC.105/C.2/L.189) and also to entertain the possibility of reconsidering other aspects taken into account prior to the submission of that document. There were a number of technical theories on the question that might help to define and delimit outer space, but that could be done effectively only by formulating legal principles.

20. Colombia's position on the geostationary orbit was well known. Progress had been made on the question since 1988, and especially in 1991, as a result of the discussions in the Subcommittee and the Special Political Committee. That had been reflected in General Assembly resolution 47/67 on international cooperation in the peaceful uses of outer space, particularly in paragraphs 4 (b) and (c) and 5. The question of the geostationary orbit probably received the most attention during the discussions prior to the adoption of that resolution, in which Colombia had participated.

21. He emphasized the need to create a new climate for the consideration of the item and invited delegations to get down to work seriously, in keeping with their obligations to the international community, international space law and their mandate from the General Assembly.

22. Mr. GONZALEZ (Chile) said that when considering the item in question, the Subcommittee had two mandates that could not be sidestepped. One mandate was from the Committee on the Peaceful Uses of Outer Space, which said in paragraph 118 of its report that it had agreed that the approach suggested in the working paper submitted by the Russian Federation (A/AC.105/C.2/L.189) was positive and could form a suitable basis, among others, for future discussions. In other words, unless other alternatives were proposed, the Subcommittee should concentrate on considering that working paper, which would indeed be the most constructive approach. The other mandate stemmed from paragraph 119 of the report, where it was stated that the "working non-paper" on the geostationary orbit could provide a valuable basis for further discussions, and that mandate must be interpreted in conjunction with the stipulations in General Assembly resolution 47/67, paragraph 5.

23. It was clear from the foregoing that, as of the previous year, the question had begun to be considered in a qualitatively different way and that there was currently a clear mandate for negotiations on issues on which there had been a virtual impasse. Since it was the General Assembly that had indicated the basis on which the item was to be considered, any further delay in dealing with it was unacceptable. Accordingly, the Working Group must have the full support of delegations so as not to shirk a legal and political mandate given to it by the highest level body in the United Nations.

24. Mr. ORRICO (Mexico) said that he supported the statements of the representatives of Colombia and Chile.

The meeting rose at 11.10 a.m.